

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JEROME WASHINGTON,

Plaintiff,

9:18-CV-1121 (BKS/CFH)

v.

JUSTIN THOMAS, *et al.*,

Defendants.

Appearances:

Plaintiff, pro se:

Jerome Washington

18-A-0985

Wende Correctional Facility

P.O. Box 1187

Alden, NY 14004

For Defendants:

Letitia James

Attorney General for the State of New York

Denise P. Buckley

Assistant Attorney General

The Capitol

Albany, NY 12224

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Jerome Washington, a New York State inmate, commenced this action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at Marcy Correctional Facility. (Dkt. Nos. 1, 28). On June 11, 2020, Defendants filed a motion for summary judgment seeking dismissal of the complaint based on Plaintiff's failure to exhaust administrative remedies or, in the alternative, dismissal under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. (Dkt. No. 41). Plaintiff did not respond to Defendants' motion even though he was given two extensions of time

to do so. (Dkt. Nos. 44, 45). This matter was referred to United States Magistrate Judge Christian F. Hummel who, on September 30, 2020, issued a Report-Recommendation recommending that Defendants' motion for summary judgment be granted, and that the complaint be dismissed with prejudice for failure to exhaust administrative remedies. (Dkt. No. 46). Magistrate Judge Hummel advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the Report, and that the failure to object to the Report within fourteen days would preclude appellate review. (Dkt. No. 46, at 13).

No objections to the Report-Recommendation have been filed. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 229 (N.D.N.Y. 2012) (citing Fed. R. Civ. P. 72(b), Advisory Committee Notes to 1983 amendment). Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 46) is **ADOPTED** in its entirety; and it is further


ORDERED that Defendants' motion for summary judgment (Dkt. No. 41) is **GRANTED**; and it is further

ORDERED that Plaintiff's amended complaint (Dkt. No. 28) is **DISMISSED with prejudice**; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: October 26, 2020
Syracuse, New York


Brenda K. Sannes
U.S. District Judge